

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION EX PARTE

Docket No. R-26438, Louisiana Public Service Commission, ex parte. In re: Possible Amendments to the Louisiana Public Service Commission's Regulations for Competition in the Local Telecommunication Market, Section 801. (General Order dated April 5, 2000).

(Decided at Business and Executive Session held July 17, 2002)

(Amends and supersedes Section 801 A. of Appendix B to the April 5, 2000 General Order)

BACKGROUND

This rulemaking docket was initiated by the Staff of the Louisiana Public Service Commission ("LPSC", "Commission") in response to a growing problem concerning the refusals of some Local Exchange Carrier ("LEC") to port local numbers to other LECs, despite the request to port otherwise being valid. Recent disputes have shown that some LECs will refuse to port a number when the LEC has a contractual relationship in existence with an end-user, who (end-user) then opts to change service to another LEC. Rather than port the number, the originating LEC "holds" the number pending resolution of the dispute. Similarly, refusals to port have occurred when a LEC's end-user elects to change service to another LEC despite the end-users' current account being in arrears. Although the relevant LPSC and FCC regulations appear to be clear on the issue of porting numbers, the growing number of complaints would suggest otherwise. In order to ensure the LPSC's regulations were clear on the issue, Staff specifically sought comments on the following statement in the April 19, 2002 Bulletin: "Under what circumstances, if any, should a TSP be allowed to refuse to port a number to another TSP?"

Following review of initial comments received, Staff issued its Initial Recommendation on June 3, 2002. Reply comments to the Initial Recommendation were likewise considered prior to Staff issuing its Final Recommendation.

JURISDICTION

As stated in Article IV § 21 of the Louisiana Constitution of 1974, the Commission has the authority to:

"regulate all common carriers and public utilities and has all other regulatory authority as provided by law. The Commission shall adopt and enforce reasonable rules, regulations and procedures which are necessary for the discharge of its duties including other powers and duties as provided by law."

Pursuant to its constitutional authority, the Commission adopted the Regulations for Competition in the Local Telecommunications Market ("Local Competition Regulations")¹, as most recently amended by the April 5, 2000 General Order ("General Order"). Section 801 A. of "Appendix B" to the General Order provides as follows:

TSPs providing local telecommunications services shall provide number portability that ensures that an end-user customer of local telecommunications services, while at the same location, shall be able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one provider of local services to another. The type of number portability contemplated by this rule is service provider portability and not location portability.

¹ The actual Regulations are contained in "Appendix B" to the General Order.

DISCUSSION

The general consensus taken from the comments received suggest the Local Competition Regulations, as well as relevant FCC regulations and orders, prohibit a LEC from refusing to port a number upon receipt of a valid request. While there is no express prohibition against withholding the porting of numbers under the LPSC's regulations, there is an affirmative obligation (to port) under federal law. Staff agrees an affirmative obligation exists under federal law, and is of the further opinion the same affirmative obligation exists under Section 801. After considering the reply comments received, Staff clarified its recommendation to ensure no exceptions to the rule are allowed and that the rule applies only when a valid request is received to port the number. Further, Staff determined that certain additional issues raised therein would be considered in other dockets currently being reviewed by Staff.

CONCLUSION

After careful consideration of the initial and reply comments filed by the parties, and all relevant LPSC and Federal regulations, Staff recommended Section 801 A. of the Regulations for Competition in the Local Telecommunications Market be clarified to specifically provide that under no circumstances may a LEC refuse a valid request to port a number, as outlined in the highlighted text:

Section 801 A. TSPs providing local telecommunications services shall provide number portability, **upon receipt of a valid request**, that ensures that an end-user customer of local telecommunications services, while at the same location, shall be able to retain an existing telephone number without impairing the quality, reliability, or convenience of service when changing from one provider of local services to another. **There are no exceptions to this requirement. In particular, no TSP shall withhold the porting of an end-users number to another TSP because of unpaid bills or contractual arrangement.** The type of number portability contemplated by this rule is service provider portability and not location portability. **Failure to timely port a number subjects the refusing TSP to the fines and penalties as contained in Sections 301 J, K & L of these regulations.**

Staff's Final Recommendation was considered by the Commission at its July 17, 2002 Business and Executive Session. On Motion of Commissioner Dixon, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept Staff's Final Recommendation.

IT IS THEREFORE ORDERED THAT:

1. Staff's modifications to Section 801 A. of the Regulations, as set forth in "Appendix A" to this Order, shall be adopted.
2. The Regulations for Competition in the Local Telecommunications Market are hereby amended to reflect the modifications to Section 801 A., as set forth in "Appendix B" attached hereto.
3. This Order shall be effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
July 24, 2002

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